

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SCNADER HARRISON SEGAL & LEWIS LLP
650 CALIFORNIA STREET, 19TH FLOOR
SAN FRANCISCO, CALIFORNIA 94108-2736
TELEPHONE: 415-364-6700
FACSIMILE: 415-364-6785

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

REFLEX PACKAGING, INC.,

Plaintiff,

vs.

AUDIO VIDEO COLOR
CORPORATION, a California
Corporation, d/b/a, AVC
CORPORATION,

Defendant.

) Case No.: 2:13-CV-7615 JAK

) (MANx)

)

) **ORDER GRANTING**

) **(1) DISMISSAL WITH**

) **PREJUDICE AND**

) **(2) ACKNOWLEDGEMENT OF**

) **PATENT VALIDITY**

)

) **JS-6**

)

)

)

PHDATA 4910205_1

ORDER OF (1) DISMISSAL AND 2) ACKNOWLEDGMENT OF PATENT VALIDITY

1 The Court, having considered the Stipulation Of (1) Dismissal With
 2 Prejudice And (2) Acknowledgement Of Patent Validity filed by Reflex
 3 Packaging, Inc. (“Reflex”) and Audio Video Color Corporation (“AVC”) in the
 4 above-captioned proceeding (the “Action”), and other good cause appearing,
 5 hereby

6 ORDERS as follows:

7 1. All claims asserted by Reflex in the Action are hereby dismissed, with
 8 prejudice.

9 2. All counterclaims asserted by AVC in the Action are hereby
 10 dismissed, with prejudice.

11 3. Acknowledgement of validity:

12 a. AVC acknowledges the validity and enforceability of U.S.
 13 Patent 6,520,337 (the “’337 Patent”), and shall not challenge its validity
 14 and/or enforceability, in this Action or in any future dispute involving
 15 Thermoformed Fragility Packaging covering single or multiple shock-
 16 sensitive package(s), and also will not, at any time, directly or indirectly
 17 assist any third party in challenging the validity and/or enforceability of the
 18 ’337 Patent. “Thermoformed Fragility Packaging” shall be defined as plastic
 19 thermoformed parts specifically designed to protect products, while within
 20 packaging, by reducing shock forces.

21 b. Notwithstanding the foregoing, AVC will be permitted to
 22 challenge the validity of the ’337 Patent if Reflex asserts that AVC has
 23 infringed the ’337 Patent by importing, making, having made, using or
 24 selling “Substantially Different Packaging,” which shall be defined for these
 25 purposes as (i) packaging that is not made of High-density polyethylene
 26 (HDPE) or Low-density polyethylene (LDPE), whose purpose is to cover,
 27 showcase, support, provide theft security, and embrace product, but not to
 28 reduce g-force shock, such as a clamshell-style packaging, (ii) or other

SNADDER HARRISON SEGAL & LEWIS LLP
 650 CALIFORNIA STREET, 19TH FLOOR
 SAN FRANCISCO, CALIFORNIA 94108-2736
 TELEPHONE: 415-364-6700
 FACSIMILE: 415-364-6785

SCHNADER HARRISON SEGAL & LEWIS LLP
 650 CALIFORNIA STREET, 19TH FLOOR
 SAN FRANCISCO, CALIFORNIA 94108-2736
 TELEPHONE: 415-364-6700
 FACSIMILE: 415-364-6785

packaging which is not Thermoformed Fragility Packaging, as defined
 above, or (iii) a Clamshell Container for retail packaging concepts.

“Clamshell Container” shall be defined as a one-piece container or two piece
 co-joined consisting of two halves joined by a hinge area which allows the
 two halves of the container to come together to close so that the container
 completely surrounds a product being packaged in the Clamshell Container;
 the name of the Clamshell is taken from the shell of a clam, which a
 Clamshell Container resembles both in form and function.

c. The question of whether an AVC product is Substantially
 Different Packaging or otherwise shall be decided by a judge of a court of
 competent jurisdiction, as a preliminary matter, without a jury trial, and
 AVC and Reflex have each waived their right to a jury trial on this issue,
 should it arise.

4. Each Party shall bear its own costs and attorney’s fees.

IT IS SO ORDERED

Dated: May 30, 2014



Hon. John A. Kronstadt
 United States District Court,
 Central District of California